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## The 'Big Four' in the Spotlight

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## **The 'Big Four' in the Spotlight: Accountability and Professional Legitimacy in the UK Audit Market**

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### Abstract

This paper seeks to understand how professions are scrutinised, and attempt to justify themselves, in the light of apparent failure. We analyse the interaction between the heads of the Big Four – the four largest accounting firms - and the House of Lords Economic Affairs Committee during a recent British parliamentary investigation into the audit market. The paper provides an ethnomethodologically-informed discourse analysis of the forms of mundane and professional reason through which 'reality disjunctures', that is, conflicting accounts of events, were posed and handled during these interactions. The reality disjunctures exposed by the *Committee*, we propose, serve to perform "holding to account" and questioning the legitimacy of the Big Four. The candidate resolutions proffered by the Big Four, in turn, sought to perform "accountability", restore legitimacy and trust in the profession and maintain the status quo. These discursive contests, we argue, were pivotal to the social construction of the reality of the UK audit profession and also served to shape the future of the profession, including implications for governance and state regulation.

**Key words:** accounting, accountability, audit, discourse, ethnomethodology, Big Four, financial crisis.

## **The 'Big Four' in the Spotlight: Accountability and Professional Legitimacy in the UK Audit Market**

"... in the context of the statutory audit responsibilities for 2007, auditors, we believe, discharged their responsibilities professionally and with care and diligence"

(Brendan Nelson, Vice Chairman KPMG<sup>1</sup>)

### **Introduction**

How do professions justify themselves in the light of apparent failure? More specifically, how are versions 'what is wrong' and 'what should be done' following a crisis in a profession discursively constructed? We address these questions through an analysis of the testimony of UK managing partners of the four major accountancy firms - the 'Big Four' – during a recent inquiry into the British audit market. This study draws on the literature on audit failure (Arruñada, 2004; Chaney & Philipich, 2002; Jin, Kanagaretnam & Lobo, 2011; Thornburg & Roberts, 2008), discourse analysis (Edwards & Potter, 1992; Potter, 1996; Edwards, 1997), sensemaking theory (Brown, 2000, 2004, 2005) and ethnomethodology (Pollner, 1987; Maynard & Manzo, 1997) respectively. Our specific contribution is to further the understanding of professions and professional work (e.g. Drew & Heritage, 1992; Gunnarsson, Linell & Nordberg, 1997; Suddaby & Greenwood, 2005) by developing an ethnomethodologically-informed discourse analysis (EDA) perspective. We explore the value of this EDA perspective for understanding the social construction of the reality of professions – including questions of what role professions play in society, how they function and how they should be governed and regulated.

Clearly, audit can only serve as a system for the 'production of legitimacy' (Power, 1997a) if the profession itself has legitimacy: being accepted as a reliable, independent, accurate and trustworthy method of "scrutiny". Indeed, following the old 'fiduciary logic', professional practice in audit was viewed as essentially being about "building and selling legitimacy" (Thornton et al., 2005, p. 135). Following on from Suddaby and Greenwood's (2005) analysis of the role of rhetoric in the creation of legitimacy during periods of institutional change in professional service firms, we seek to show how the legitimacy of the audit profession was reaffirmed or undermined during a public inquiry seeking to interrogate the performance of the Big Four auditors in the run-up to the global financial

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<sup>1</sup> [http://www.publications.parliament.uk/pa/cm200809/cmselect/cmtreasy/uc144\\_iv/uc14402.htm](http://www.publications.parliament.uk/pa/cm200809/cmselect/cmtreasy/uc144_iv/uc14402.htm). Oral evidence given to Treasury Committee inquiry "Banking crisis - auditors and credit rating agencies", 29<sup>th</sup> January 2009.

crisis. We argue that the Big Four were asked to justify themselves, and more specifically account for their 'performance'. In providing such an account, they were potentially producing, maintaining or defending their *legitimacy*, which – in the case of professions – relies not only upon following accepted social norms of conduct but also higher ideals and values such as independence, truth, fairness and public service (Boltanski & Thévenot, 2006; Patriotta et al, 2011).

The paper draws on testimony data recorded during a House of Lords inquiry into the state of the UK audit market. Our analysis examines the way in which senior executives of the Big Four attempted to legitimate the actions of their firms in the light of the questioning of their professional integrity, trustworthiness, competence and expertise. Our argument is that the interaction between the *House of Lords Committee* and the Heads of the Big Four were pivotal moments, whereby the legitimacy of the audit field was under threat. In terms of audit specifically, the accountancy profession has been granted a professional privilege by most countries around the world, offering them a warrant to practice under what are essentially oligopolistic market conditions (e.g. Abidin, Beattie & Goodacre, 2010). The global financial crisis, and the collapse and subsequent bail-out of banks that were previously given a 'green light' by auditors, placed this warrant in question. The inquiry was thus, in our view, about which version of reality was established about audit's role in the financial crisis specifically and their rights to privileges associated with their standing as a 'profession' more generally.

We draw on concepts from ethnomethodology and discourse analysis to show how *reality disjunctures* – situations where people produce, or are faced with, multiple versions of the world (Pollner, 1987; Potter, 1996: 54-7; Edwards, 1997: 68-71) – were created and contested within the inquiry. Understanding these methods for recognising and resolving reality disjunctures, we suggest, enables us to see how the legitimacy of the profession was constructed and contested, with implications for potentially far-reaching changes to the accountancy profession and the Big Four specifically. In a similar study conducted by Maynard and Manzo (1997), they explore the discursive strategies, and specifically *contrast procedures*, employed by jury members in order to create a local understanding of what constitutes 'justice' in the face of conflicting interpretations. In our case, we will show how the reality disjunctures (ex)posed by the Lords served to undermine the credibility of the Big Four's accounts in ways that de-legitimized the profession and bolstered the mandate for a change in governance. We also extend our argument by drawing on Suddaby and Greenwood (2005), Pentland (1993), Hajer (2009: 107-9), Alexander (2011: 68-70) and Ramirez (2013) in linking rhetorical micro performances to broader, meso and macro considerations regarding professional legitimacy, governance and regulation.

The remainder of the article is organized as follows: the production of legitimacy in a professional context is explained first; followed by an exploration of the role of contrast structures, reality disjunctures and candidate resolutions in the legitimation process. The methods section explains how our analysis sought to understand how the *Committee* questioned the legitimacy of the current system and how the heads of the Big Four sought to repair legitimacy and restore confidence in the profession. The paper concludes with a discussion of the implications for the Big Four and the accountancy profession as a whole.

### **Producing Professional Legitimacy: The Case of Auditors**

There has been a long-running critique, conducted primarily on the margins of the discipline, directed against a “reified view of accounting” practices (Roberts and Scapens, 1985: 453). In the apt characterization provided by Covalleski and Dirsmith (1990: 545), a reifying view of “(a)ccounting gives a self-evident and apparently objective way of thinking, talking and doing, cloaked behind a veil of blandness.” Such critique is primarily concerned with giving the lie to the notion or image of accounting as a *mirror* that neutrally and objectively records corporate information. Instead, from a critical or interpretive angle, the emphasis is placed on studying “accounting in action, as forms of situated practice” (Chua, 1988: 73; see also Tomkins & Groves, 1983a, b). The latter kind of research tells us what *actually happens*, rather than what *should happen*. Rather than accept accounting and audit as a putatively objective and interest-free enterprise, from this angle we look at “the parts played by legitimated knowledge experts” in the process of “account fabrication” (Chua, 1995: 115). In a later piece, Chua (2007: 490) reinforces the point by arguing for a “renewed concern with practice” and concrete “field studies” of what actually happens. This directs us not only towards studying the practices involved when professions interact with their clients, but also towards studying the practices involved in field-level contestation and change at the level of the profession as a whole – the focus of this paper.

In this vein, Pentland (1993) demonstrated how auditing, by providing a form of ‘comfort’ at the ‘micro’ level, can fulfil a ‘macro’ function. Professionalism, institutional trust in audit practice and the ‘idealization’ of auditor independence are *macro constructions*, which are built up from and reproduced via the layering of many such *micro interactions*. Micro-rituals of interaction between auditors and their clients provide the progressive *purification* of the “mess of practice” for outside consumption (Power, 2003: 385). Building on Goffman and Collins, Pentland (1993) argued that to be an auditor, you have to convincingly act like an auditor, and put on a smooth public face. Our argument takes Pentland’s and Power’s arguments away from the auditor-client interface, and we transpose their arguments to the *testimony* interface within the public inquiry setting. Just like Power (2003:

385) rightly emphasizes “appearances and process as quality proxies” in the client interaction, we extend his point to the testimony interaction. As the legitimacy of the Big Four auditors has been questioned – inquiries are surely not held where professions are deemed to be legitimate and working well – then specific interactions are required to address this challenge (Patriotta et al, 2011; Ramirez, 2013: 848). Power (2003: 392) skilfully describes how, during auditor-client interaction, a “great deal of work is done by agents to ensure that what is eventually done and agreed upon appears natural, obvious and, temporarily at least, uncontested.” We also extend this argument in proposing that the public (and ceremonial) display of scrutiny in the form of a public inquiry, prompted by the financial crisis, provides a renewed challenge for the Big Four in re-establishing legitimacy for their specific privileged position in society.

Extant literature on the global financial crisis has attempted to dissect the causes of failure in the global banking system (Lounsbury & Hirsch, 2010; Campbell, 2010; Casey, 2011; Stiglitz, 2010). In particular, there has been critical scrutiny of banker’s remuneration packages (Acharya & Richardson, 2009), regulators such as the Financial Services Authority in the UK or the Federal Reserve Bank in the US and major rating agencies such as Moody’s and Standard & Poor’s (Rona-Tas & Hiss, 2010; Crotty, 2009; Goodhart, 2008), the ideology of neo-liberalism (Campbell, 2010; Crouch, 2011) and the role of competition between New York and London as major financial centres (French et al, 2009; Coates & Dickstein, 2011). Others, such as Cassidy (2009), paint a broader picture, one in which no particular group is in the foreground, but rather it is a landscape capturing broad market failure in the context of neo-liberal deregulation of the finance sector.

The role of accounting practices (Arnold, 2009; Power, 2011) and the Big Four accountancy firms that audited the banks (Sikka, 2009; Jin, Kanagaretnam & Lobo, 2011) have also come under scrutiny, particularly in relation to the auditing of banks which subsequently received government assistance to prevent their collapse. Power’s (1997b: 123; also Day and Klein, 1987: 244) observation that “The audit society is a society that endangers itself because it invests too heavily in shallow rituals of verification at the expense of other forms of organizational intelligence” must now be seen as highly prescient in light of recent developments. By taking its cue from Power’s “shallow rituals” indictment, this paper’s main research question relates to the analysis of the methods used by the Big Four in accounting for and justifying their role in the financial crisis, along with wider concerns of the lack of independence and lack of competition in the audit market. In line with Boltanski and Thévenot (2006), we also seek to understand how justifications relate to ‘orders of worth’ not in abstract terms, but through examining how they play out *in specific situations*<sup>2</sup>. Following Ramirez (2013: 854), we “use

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<sup>2</sup> Legitimacy, justifications and orders of worth are connected in this setting as follows: First, the legitimacy of the UK audit market was questioned in and through the act of holding an enquiry – clearly, professions that are perceived as legitimate do not get called to an enquiry and are permitted to continue “business as usual”.

archetypal situations for the sake of demonstration". By focusing on some carefully chosen situations of justifications we seek to demonstrate a broader argument about the role of methods of holding to account, methods of justification and their respective consequences for professional legitimacy, which will be outlined in the discussion and conclusion.

It is our central contention that the parliamentary inquiry we analyse represents a significant site in which professional mandates and jurisdictions were negotiated (Suddaby & Greenwood, 2005). Sulitzeanu-Kenan (2010) found that three factors influenced the decision by government whether to appoint an inquiry: the politics of blame, a public agenda and government popularity. Taking this a step further, for critical management scholars, public inquiries amount to nothing more than a 'smokescreen': a veneer of accountability that enables the established power relations and lines of influence between business and politics to remain untouched (Engelen, et al 2011; Froud et al., 2012). Our approach views inquiries as neither essentially 'smokescreens', nor neutral democratic mechanisms for the achievement of public representation and accountability. Rather, following on from Suddaby and Greenwood (2005), we focus the analytical lens on the discursive practices employed to *render questioned conduct legitimate or illegitimate*. For this purpose, we ask: what are the discursive methods used to produce and make sense of accounts, i.e. testimonial evidence, when professional legitimacy is at stake? In the next section, we outline our theoretical approach.

### **Reality Disjunctures: An Ethnomethodologically-informed Discourse Analysis Perspective**

Ethnomethodological studies of courtroom interaction (Atkinson & Drew, 1979; Pollner, 1987), jury settings (Maynard & Manzo, 1997) and testimonies at public inquiries (Lynch & Bogen, 1996; Gephart, 1993) provide important insights into the methods through which versions of reality – and their subsequent translation into "facts" – are assembled. Our theoretical perspective seeks to link these insights from ethnomethodology into the social construction of facts – what Garfinkel (1967: 79) called 'fact production in flight' – with insights from discourse analysis (Potter, 1996) in what we call Ethnomethodologically-informed Discourse Analysis (or EDA for short). The aim of EDA is not to adjudicate between different versions of reality, but to uncover the *procedures* (or 'ethno-methods')

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Second, within the setting of an enquiry, key institutional actors are called upon to justify their actions and justify the current status quo: justifications used not only for 'face saving' but also to mitigate against the possibility of state intervention. These justifications may, or may not, draw upon or appeal to broader social values or orders of worth: what is deemed 'worthy' (or an 'ideal') within the society in question. What we add to these existing theoretical concepts is the understanding of how the Big Four use not only justifications drawing on orders of worth, but also put forward candidate resolutions for resolving reality disjunctures – concepts we develop from Pollner (1987) – where those disjunctures were exposed in order to "hold them to account". In so doing, we reveal the forms of mundane and professional reason that are deployed by the Big Four to explain, justify or excuse their apparent failure.



through which versions are produced as the authoritative or more credible ones<sup>3</sup>. For example, by identifying inconsistencies, an actor can “cast doubt on the credibility of the speaker” (Potter, 1996: 118), thereby undermining their version of reality and bolstering one’s own. The version that has fewest of these apparent errors, inconsistencies or implausibilities is the one that, for all practical purposes, is accepted as constituting ‘fact’ within institutional settings.

Gephart’s (1993) ethnomethodological study focussed on the sensemaking processes during a public hearing conducted in 1985 by the Canadian federal government energy board following a 1985 pipeline accident. Gephart argued that different, or even *contradictory* versions, of the same event can initially co-exist. The task of institutions such as inquiries, then, is to sort through these competing versions in order to construct a single definitive version of events. Our study extends this perspective further by showing how discursive challenges during key events such as public inquiries have the potential to undermine or defend the legitimacy of a profession. Each cross-examiner, in our case the *Committee* members, builds “his or her case, step by step, in interaction with witnesses, through a series of questions and answers about specific facts of the case” (Heritage & Clayman, 2010: 176). Credible and convincing versions of reality are thus built incrementally, under constant challenge by alternatives.

What, then, is a *reality disjuncture*? The term reality disjuncture is used by the ethnomethodologist Melvin Pollner (1975; 1987) to describe the existence of contradictory versions of reality, which pose a ‘puzzle’ for the mundane assumption that the world is a perceptually or cognitively *shared* domain of objects and events ‘out there’ that exist independently of subjective idiosyncrasies. ‘Mundane reason’ – our common-sense everyday knowledge of the world – holds that there can only be *one* reality. Therefore, methods are clearly needed to establish what that reality is in the face of conflicting accounts (Pollner, 1984). Dealing effectively with reality disjunctures is particularly important for the accomplishment of public hearings and inquiries because, like in judicial settings, the institutional role of inquiries is to provide *one* official, accredited and ‘authoritative’ version of reality (Brown, 2000; 2004). Whilst society can easily accommodate a pluralism of ‘versions’ in many areas of endeavour, in professional arenas such as law, audit or medicine, only one official version of reality can be permitted – a single jury verdict, a single audit judgement or a single medical diagnosis. Alternative versions will only be tolerated in the form of private and personal opinions, but they do not, and cannot, enter the official version. Where such competing versions exist, the institutional role of the judge, or questioners, is to resolve these disjunctures, i.e. decide which version is “what really happened” or “what really is the case”.

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<sup>3</sup> In Silverman’s (2014: Ch.1, Ch.5) scheme, we are operating within a constructionist, not positivist or naturalistic research model.

In order to accomplish this 'resolution' of the disjuncture(s), *candidate resolutions* therefore need to be put forward and considered in this reasoning process. How, then, are reality disjunctures handled in mundane forms of reasoning? Pollner (1987) identifies some common candidate resolutions for resolving competing accounts. Conflicting accounts can be undermined, to bolster the credibility of the preferred version, by reference to things such as:

- (a) defective sensory apparatus (such as poor vision or hearing),
- (b) distortive psychological mechanisms (such as hallucination, imagination, wishful thinking),
- (c) atypical methods of reporting (such as lying, joking, metaphor, spin).

However, simply *offering* a candidate resolution "does not assure a consensual resolution of reality disjunctures" (Pollner, 1987: 69). Rather, the job of the analyst is to study how different candidate resolutions are handled in specific institutional settings – in our case an inquiry into a profession. For example, Gephart (1984) explores the way in which an official inquiry into an environmental disaster handled the reality disjunctures that were generated by competing versions of the event by different witnesses, highlighting in particular the politics inherent in the process through which certain versions get ratified as the 'official' or 'authoritative' version. Thus, the task is not to adjudicate on whether the official version is correct or not. Rather, the task is to study the social and organizational processes through which versions become stabilised and legitimated as 'truth'.

The concept of reality disjunctures can also be traced back to Perelman and Olbrechts-Tyteca's (1969: §90) discussion of the 'appearance-reality' dissociation: "While appearances can be opposed to each other, reality is coherent: the effect of determining reality is to dissociate those appearances that are deceptive from those that correspond to reality." (p.416) They continued: "It enables those that do not correspond to the rule which reality provides to be termed illusory, erroneous, or apparent (in the depreciatory sense of this word)." (ibid) A *contrast structure* is a common linguistic method for identifying reality disjunctures, by highlighting the contrast between two opposing states, ideas or arguments in narratives or accounts (Smith, 1978; Potter, 1996: 194-5). Contrast structures are well documented in the field of rhetoric as a key method for producing persuasive speech (Potter, 1996). They are also routine features of the so-called 'witcraft' of justifying a position and handling potential counter-arguments (Billig, 1996). Importantly for our purposes, they also enable speakers to juxtapose two apparently contradictory states in order to highlight a 'puzzle', or what Perelman and Olbrechts-Tyteca (1969: 419) call "the problem that is raised by the incompatibility of appearances." Our aim here is to show how contrast structures are employed as the very "machinery" of truth-generation, because they help to expose contradictions and thereby facilitate the generation of an agreed upon set of 'facts', which ultimately is the central business and *raison d'être* of institutional settings such as courtrooms and enquiries.

For EDA, the analyst does not play the role of judge – one does not ‘argue with the members’ – whether by “siding” with one party to a dispute, or rejecting their versions in favour of your own preferred version of reality (Gubrium & Holstein, 2012). The EDA analyst is instead interested in “*how* social realities are produced, assembled, and maintained” (Holstein & Gubrium, 2008: 374-5). EDA does *not* seek to *adjudicate* which is the ‘correct’ reality. As for Suchman (1987: 57), the project is not to establish “whether social facts are objectively grounded, but how that objective grounding is accomplished”. The “facts” we are concerned with in this paper relate to the conduct, governance and legitimacy of a particular profession – more specifically, the audit function of the accounting profession. For the members of the Inquiry *Committee* we analyse, a single version of reality is not only desirable but necessary – it is the pre-requisite for making decisions and recommendations, whether that is decisions about whether to convict or acquit a defendant in the case of a courtroom, or recommendations about new forms of regulation or state intervention in the case of a public inquiry. Such decisions, of course, have serious consequences for those involved: these are therefore highly *consequential* methods of producing or withdrawing legitimacy.

### Research Design

#### *Background Context*

Our study analyses the cross-examination of the leaders of the Big Four in the UK as part of the *House of Lords Economic Affairs Committee* (hereafter simply the *Committee*) investigation into the UK Audit market<sup>4</sup>. The period in which the Lords inquiry took place is perhaps significant for understanding the data we draw upon. It followed a ‘bonfire of trust’ in many parts of the British establishment, involving scandals regarding parliamentary expenses, a meltdown in the banking sector, and a phone hacking scandal in the media (Kramer & Pittinsky, 2012).

The House of Lords is the upper chamber of the UK’s bicameral system. The Lords cannot, by themselves, pass legislation. The Lords debate and vote on legislation that has been passed by the House of Commons, the ‘lower house’. They effectively share the task of law-making with the Commons and also share the task of holding to account the work of Government. In addition, the Lords also have a number of specialist committees that produce reports and recommendations into what are deemed to be salient contemporary issues of public policy that require in-depth consideration. For instance, some recent reports from the House of Lords have included ‘Banking Supervision and Regulation’, ‘Economics of Renewable Energy’, and the ‘Economic Impact of Immigration’. Members of the *Committee* have in the course of their previous careers typically held senior government, political or commercial positions and possess high levels of knowledge about

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<sup>4</sup> <http://www.publications.parliament.uk/pa/ld201011/ldselect/ldeconaf/119/11902.htm>

economic and financial issues. They are, in short, senior members of the financial, industry and political establishment in the UK.

In outlining the rationale for the Audit Inquiry during a press conference, Lord McGregor made a number of remarks that are noteworthy for our analysis. McGregor's account both establishes the problematization of the audit market ('dominated by a very small number of players') and frames the nature of the proposed 'solution' ('promoting more competition'). He emphasised the issue of whether auditing failed to pick up on 'unsustainable risks' being accumulated by the banking sector in the run up to the crash. The aim of the report emanating from the inquiry, he concludes, is to provide 'better services to business and investors'<sup>5</sup>. The *Committee* invited evidence to be submitted by the 27<sup>th</sup> of September 2010. More specifically, the *Committee* asked for submissions that related to the following questions:

- "How has auditing come to be dominated by four global firms? Should more competition be introduced? And if so how?
- Does a lack of competition lead to excessive fees being charged?
- Were auditors sufficiently sceptical when auditing banks in the run up to the financial crises in 2008? Could they have done anything to mitigate the crises? Can auditors now contribute to better regulation of banks?
- Do conflicts of interest arise between audit and consultancy roles? How can these be avoided or mitigated?
- Should the role of internal auditors be enhanced and how should they interact with external auditors?"<sup>6</sup>

While our paper focuses exclusively on the hearing conducted on the 23<sup>rd</sup> November 2010, where the UK Heads of the Big Four gave their testimony to the *Committee*, our knowledge of the other hearings and written submissions also informed our analysis.<sup>7</sup> As can be seen, there existed

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<sup>5</sup> The final report is available here: <http://www.publications.parliament.uk/pa/ld201011/ldselect/ldconaf/119/119.pdf> [our overview of this final report has not been included due to space constraints].

<sup>6</sup> Twenty one written submissions were made to the inquiry, ranging from letters from private citizens, academics, accounting and investment firms and other stakeholders. The *Committee* convened for hearings on ten occasions, interviewing: accountancy academics (12/10/2010), the UK professional accountancy institutes (19/10/2010), management consultants (26/10/2010), medium sized accountancy firms (2/11/2010), State bodies such as the Office of Fair Trading, the Financial Reporting Council and the Financial Services Authority (9/11/2010), the Heads of the Big Four in the UK (23/11/2010), Finance directors including representatives of the 'Hundred Group of Finance Directors' (7/12/2010), the Chartered Institute of Internal Auditors (14/12/2010), Insurance Companies (11/1/2011), representatives from the International Accounting Standards Board (IASB) and the Institute of Economic Affairs (18/1/2011), and current Government Ministers (25/1/2011). In total the *Committee* asked 553 questions, which were transcribed and made publicly available on the House of Lords website. The sessions were also broadcast live in the UK on Parliament TV. The *Committee* published their final report on 30<sup>th</sup> March 2011. While the recommendations of a House of Lords report are not legally binding, they are invested with considerable symbolic and political power.

<sup>7</sup> The transcripts of all the hearings are publicly available at the following website: <http://www.parliament.uk/business/committees/committees-a-z/lords-select/economic-affairs-committee/inquiries/auditors-market-concentration-and-their-role/>. A summary overview of the other hearings is provided here:

several points of consensus and disagreement between the various hearings around the causes of 'audit failure', with some representatives also seeking to question the notion that a 'failure' had indeed taken place. Indeed, it was the narrative of 'failure' that comprised much of the debate in the Big Four testimony that we analyse here. It is noteworthy that prior to this meeting, a number of strong critiques of the Big Four had been made by other witnesses.

For our purposes, the hearing data is particularly suitable as it is '*naturally occurring talk*' (e.g. Silverman, 2014: Ch.11) between members of the *Committee* and Heads of the Big Four – that is, data that is *not staged for purposes of the researcher*, albeit 'staged' in the sense of being a highly ritualised public setting (Kertzer, 1988: 107-110). Naturally occurring talk is particularly suitable for the type of discourse analysis we undertake here, because such talk potentially enables us to study fact-making 'in flight', namely in settings where these facts will go on to inform decisions and actions that are consequential for practical matters at hand of those involved (see also Tomkins & Groves, 1983a, b) - unlike, say, interviews or questionnaires where the 'facts' being assembled are primarily consequential for the researcher's *own* agenda (Silverman, 2014: Ch.7). Of course, we acknowledge that the representatives of the Big Four almost certainly engaged in extensive preparation for their appearance at the House of Lords, which undoubtedly involved media training and PR advice, and perhaps even collective strategies for dealing with questions. Still, the performance must not appear overly scripted, as authenticity needs to be at least *performed and projected*: in Alexander's (2011: 72) words, even "an artfully contrived performance (must) seem honest and real ...".

### **Research analytics**

The analysis was conducted as follows. Each of the three authors independently read the publicly available transcript of the testimony given by the senior UK partners of the Big Four on the 23<sup>rd</sup> November 2010, which comprised of 55 questions and was 15,800 words in length, noting in particular the discourse used by both questioners (Lords) and respondents (Big Four) alike. We were guided by the insights from courtroom, public inquiry and jury deliberation studies in particular (e.g. Atkinson & Drew, 1979; Pollner, 1987; Lynch & Bogen, 1996; Maynard & Manzo, 1997; Hajer, 2009: Ch.3) into how competing versions of reality are posed and handled in judicial and quasi-judicial settings. We were also guided by Suddaby and Greenwood (2005: 42), for whom the "data thus capture the arguments used by key actors engaged in a legitimacy contest over institutional logics". Our expectation that the questioners (*Committee* members) and respondents (Big Four representatives)

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<http://www.publications.parliament.uk/pa/ld201011/ldselect/ldconaf/119/119.pdf>

would produce different versions of “what happened” and “why” in the run-up to the financial crisis was borne out by the empirical data. Hence, we focused our analysis on those sections of the transcript where different versions of reality (‘disjunctures’) were *identified, problematised and handled* by the participants. Following our independent analyses of the transcript we met and spent further time reading the data to identify all the stretches of interaction where ‘reality disjunctures’ were present. We have organized our analysis around the various methods or procedures used to handle these disjunctures, which inductively we came to term ‘factual’, ‘temporal’ and ‘theoretical’.

### Reality Disjunctures and the Audit Profession

Contrast structures operate in this setting by *calling into question* previous accounts provided by the Big Four in order to expose reality disjunctures – the contrast between, say, their claims that the industry is competitive or performed well in the auditing of banks and evidence to the contrary. In what follows, we analyse selected examples of contrast structures that served to undermine the credibility of the Big Four’s accounts and, thereby, posed questions about the legitimacy of the profession. Table 1 provides a summary of the contrast structures posed by the questioners and the various resolutions put forward by the Big Four representatives across the following four major points of contestation during the inquiry<sup>8</sup>:

- The conflict of interest involved in providing tax advisory services to audit clients;
- The auditing of banks, which were given an unqualified audit opinion and subsequently received a state bail-out to avoid bankruptcy;
- Lack of competitiveness in the audit market.
- Failure to alert authorities and regulators about the risks posed to the British economy by the leverage, liquidity and lending practices of the banks that were audited;

---Insert Table 1 here---

In the analysis that follows, we will analyse the four selected extracts summarised in Table 1 in order to illustrate the operation of the contrast structures, reality disjunctures and candidate resolutions.

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<sup>8</sup> Given our interest here in reality disjunctures created by competing accounts, we have chosen not to examine the points of agreement during the hearing. These four points of disagreement were also the main points of criticism of the Big Four in the *Committee’s* final report, which formed the basis of their recommendation for referral to the Office of Fair Trading and then the Competition Commission (as it was then called).

*Disjuncture 1: Conflict of interests*

**Q252 Lord Hollick:** Is there not a conflict of interest though at the heart of this because you're providing advisory services, let us say, on taxation and tax planning, which is a major part of the professional services you supply, and then another group from your firm come along and audit the same thing? Doesn't that present you with a real conflict of interest?

**Mr Powell:** No because the independence rules are very strict on this. They're reviewed by the audit committees; they're reviewed by ourselves in terms of the provision of those services. We would not put ourselves into a situation where we had to audit a work that was undertaken by the firm in a different way. So the independence rules are very strict on this. As I say, we apply them and so we are very careful not to put ourselves into a conflict situation.

**Extract 1**

In Lord Hollick's question, he takes issue with the notion that commercial interests do not interfere with their professional judgement as auditors. The contrast structure is as follows:

- (i) Given X [that your firms provide advisory services on taxation and tax planning];
- (ii) We would expect Y [that the same accounting firm would not conduct the audit given the conflict of interest];
- (iii) How you can account for Z [the fact that your firm also audits the same companies it offers these services to]?

Lord Hollick formulates the disjuncture based upon the assumption that different groups from the same firm are, or have been, involved in simultaneously offering advisory services and undertaking audit work. Powell attempts to resolve the disjuncture by disputing whether this fact actually exists: what we can call the 'factual method'. Powell claims that this 'fact' is actually 'fiction': this circumstance has never actually occurred because they would not be allowed (by their independence rules and the client firm's audit committees), or allow themselves (through notions of professionalism), to be in this situation. The 'problem' itself (conflict of interest) is accepted as a *theoretical* possibility, but not an empirical reality. The factual method is also deployed in other responses: for instance, through the assertion in response to Q240 that "no, we did not make that threat [to withdraw from the audit market]". In this case the disjuncture is dismissed as thus: there is no disjuncture, because the situation you refer to has *never actually happened*.

This was one version of reality, but it was not necessarily strong enough to be widely accepted. In a different hearing, one of the academic experts (Power, 12 Oct 2010) provides a different resolution of the supposed 'conflict' between offering both audit and advisory services. Here the

expert witness, Professor Michael Power, downplays the severity of this conflict: “There are a lot of synergies and benefits between advisory work and auditing. I am sorry that so much attention has been given to this particular issue because it detracts from the really important issue, that of audit quality.” (Q6) This offers a *theoretical* resolution of the disjuncture, problematizing the very *theory* of ‘conflict of interests’ underlying the question. In another testimony, Hayward (Independent Audit, 26 Oct 2010: p.24) distinguishes two ways of doing an audit and argues that under one type, “the right first time sort, then doing advisory work can improve the auditor’s ability to do it, because he has a better understanding of the business and of the motivations and pressures of management.” Again, here different *theories of audit* are put forward to offer candidate resolutions to the ‘conflict of interest’ disjuncture.

Different ways of resolving the disjuncture would, in all likelihood, have different implications. For example, the factual resolution put forward by the Big Four points to little need for additional regulation (because the conflict of interest ‘never happens’), whereas the theoretical resolution put forward by the academic experts points to the need for greater regulation of audit work (to ensure it is ‘right first time’) coupled with less regulation of advisory work (which is presented as ‘synergistic’).

### *Disjuncture 2: The going concern judgement*

**Q280 Lord Lipsey:** I have an increasing Alice in Wonderland feeling about this discussion, quite frankly. I’m a naïve amateur in this field but I expect “going concern” to mean that a business can pay its debts as they fall due, but you meant something quite different. You meant the Government will dip into its pockets and give the company the money and then it can pay its debts as they fall due and you gave an unqualified audit report on that basis. If you had said, “We are satisfied that support will be available from Government that will enable it to continue as a going concern”, of course you wouldn’t be subject to this criticism. But instead, where your duty is to report to investors the true state of the company, you were giving a statement that was deliberately designed to mislead markets and investors as to the true state of those banks. That seems to me to be a very strange thing for an auditor to do.

**Mr Powell:** No. The reason that I disagree with that statement is that I think when you look at the audits at the two-year end—so let’s look at 31 December 2006—nobody could perceive the crisis that was coming. So on the assessment that was made at that point on the availability of liquidity, you have to assume that when you’re trying to form a view as regards the going-concern nature of an organisation, it’s not just going to run completely into a brick wall at some point during the next 12 months. You make an assumption, a realistic and educated assumption, as regards the market conditions—the way the market is likely to go. So that is the year-end 31 December 2006, before the financial crisis.

### **Extract 2**



Lord Lipsey begins his question by drawing a parallel between the previous responses by the Big Four and the children's fantasy *Alice in Wonderland*, thus setting up the scepticism of his question. The invocation of *Alice in Wonderland* is perhaps indicative of the surreal quality Lipsey ascribed to some of the statements made by the Big Four. This is quickly followed by his self-categorisation as a 'naïve amateur': perhaps an ironic remark to preface his more 'expert' scrutiny, but also one that fits with his role as political representative of the 'general public'. Lipsey then uses a contrast structure and, through this device, the questioner problematizes the validity of the Big Four's previous account, namely whether they *actually* 'performed well in the auditing of the banks'. The audience is invited to be *sceptical* with regard to their version of events: if the banks were judged by auditors to be able to repay their debts, why did they need state assistance in doing exactly that? The reality disjuncture is thus: either the banks had sufficient liquidity to be a 'going concern' or they did not – it cannot be both.

In response, Powell employs a *temporal* resolution to the disjuncture. For him, the objects to which the two accounts refer – the 'going concern' audit opinion – are *not the same objects*. One is the opinion *now* post-crisis and with-the-benefit-of-hindsight, and the object to which he is referring was *then*, pre-crisis. Reference to the setting of the audit report "before the financial crisis" undertakes the work of resolving the disjuncture: while the banks could not be considered a going concern during the crisis or post crisis, it was reasonable to consider them a going concern back then *before* the crisis. The temporal method is in fact deployed on other occasions where the answer is given with specific date references to 'the year ended 31 December 2006' (response to Q267), '31 December 2007' (response to Q275) and '31 December 2006' (response to Q280).

Other 'experts' provided a different resolution to the disjuncture: one expert pointed to the 'Companies Act' regulatory regime, which had existed before the events under scrutiny, under which audit firms adopted prudence and substance over form, whereas under the subsequent regulatory regime, the audit firms will play safe and simply follow the rules, cautious of being sued: "This is the problem with the 'true and fair' view and the 'substance over form' concepts going." (12 Oct 2010, Prof Beattie, response to Q30) The academic expert here provides not a *temporal* but a *theoretical* resolution to the disjuncture – the theory of audit built into professional standards, such as IFRS. Again, these different methods for resolving reality disjunctures point to different 'causes' of the audit 'failure' and different 'solutions' to it: they are thus *consequential*. The temporal resolution put forward by the Big Four points to little need for additional regulation, because auditors can never predict the future, and should not reasonably be expected to be fortune tellers. The theoretical resolution put forward by the academic experts, on the other hand, points to the need for greater

legislative protection and regulation of audit work, or indeed a re-definition of what audit is through a revision of the professional standards.

*Disjuncture 3: Market competitiveness*

**Q244 Lord Forsyth of Drumlean:** I don't want to press you on this but just on the Chairman's point about Oxera. I must say I find it very difficult to take this argument that it's really competitive when, according to their figures, which I see you're not really disputing, the switching rates for a FTSE 100 company are every 48 years; for a FTSE 250, every 36 years and for all listed companies, every 25 years. How can you possibly argue with a 4% churn every year that that's a competitive market?

**Mr Griffith-Jones:** I think it's important to understand what happens before it actually gets as far as a tender. Let us assume that there is unhappiness or relative underperformance, which is the most common cause of potential tender. We as a firm obviously would take such circumstances very seriously and basically offer to either change the team or improve the procedures or essentially to be given another year to sort ourselves out. If you look at it from the audit committee's perspective, it seems like a logical decision to say, "Okay, let's see: either yes or no". Very frequently, they decide pragmatically and they decide, I hasten to add, not us. It doesn't happen all that often, but it does, of course, happen, that they decide.

**Extract 3**

Here Lord Forsyth scrutinises the testimony of the Big Four, particularly their claim that the audit field is already highly competitive. In so doing, doubt is cast upon the idea that the 'invisible hand' of the professional services market is operating adequately. The reality disjuncture is thus: either the market is competitive [the Big Four's claim] or it is not [Lord Forsyth's claim]: it cannot be both. Hence, the Big Four must find a way of resolving this 'puzzle'.

Griffith-Jones attempts to resolve the reality disjuncture by re-interpreting the 'evidence' used in the question. He disputes not the evidence itself (although this is indeed one way of resolving competing accounts – see Lynch, 1998), but rather *what the evidence tells us* about levels of competition. Griffith-Jones claims that low switching rates are not, in fact, evidence of a lack of competition. He claims that the audit market *is* competitive (validating their original version). Low switching rates, he claims, arise because clients are choosing not to exercise the *option* of tendering – either because the auditor resolves any problems before it goes to tender, or because the audit team is itself rotated frequently, thereby building 'churn' into the system already. The candidate solution offered to resolve the disjuncture is *differing theories of competition*. According to the Big 4, long-lasting relations between buyer and supplier need not indicate the absence of 'competition'. Rather, the 'fact' that switching rates are low (Q242), and that competitive tenders are so infrequent among

the FTSE100 companies (Q243), suggests that industry concentration is actually the result of market *choice* (Q244, 245). The Big Four seem to suggest that actual switching or tendering is not essential for a competitive market to exist; the mere *option* of being able to switch already constitutes a competitive market (response to Q243-6).

In this example, the 'facts' of the evidence are not disputed, but rather what those facts themselves indicate about the abstract, theoretical concept known as 'competition'. The theory of 'competition', then, is re-defined from being about 'high levels of switching' to having 'the choice to switch'. It is worth pointing out that there was a corresponding disagreement during the academic expert testimony (12 Oct 2010). Whilst Prof Power agreed with the questioner (Lord Best, Q11) that a low rate of switching (turnover) is indeed evidence of an 'uncompetitive' market, Prof Beattie (response to Q11) disagreed with both Lord Best and Prof Power by arguing that a low switching rate was *not* indicative of a lack of competition. Other parties, namely small and medium-sized audit firms, also expressed concern at the level of concentration with the attendant risk of systemic failure in the market (02 Nov 2010, Mr Michaels, p.2) – albeit with onlookers presumably thinking “they would say that wouldn't they” (Potter, 1996), given they would understandably want a 'slice of the pie' for themselves. Indeed, Mr Herbinet of Mazars LLP, the 8<sup>th</sup> largest UK accountancy firm, pointed out that among the FTSE100 only 0.1% of audit fees was not earned by the Big Four (02 Nov 2010, Mr Herbinet, p.8). Thus, theories of what constitutes 'competition' were both 'at play' and 'at stake' here.

*Disjuncture 4: Sounding Alarm Bells*

**Q274 Lord Forsyth of Drumlean:** Just on that point, can I ask a question? I have asked it a number of times during the course of this inquiry. I don't understand; seeing balance sheets being so extended, seeing the kind of growth that there was at Northern Rock, seeing the multiples that were being lent—why would that not sound alarm bells among the auditors at an earlier stage and some questions about “Is it really sensible to be lending 39 or 40 times?” or whatever the number was? Why did that not happen?

**Mr Griffith-Jones:** With hindsight, it is, of course, a pretty good question and I'm sure people have struggled to answer it.

**Lord Forsyth of Drumlean:** But when we discovered the extent to which the balance sheets were extended we were all shocked.

**Mr Griffith-Jones:** The first point is that the auditor's primary role is to count the score at the end of the accounting period and that they do. It is a look-back exercise. Sure, it has this obligation to look forward on a going-concern basis but not a look-forward other than that. So we are not trying to forecast next year's profits. Secondly, it is not responsible—and this is interesting learning from the whole thing—for making an assessment of the risk of the business. So, for example, if you have a company that has leverage of 100 times and a company that has no leverage at all, the audit report is the same, or up to now has been the same. It is not the role of the auditors to say to the company, “Your business model is different from your competitor's business model”. Whether it should be, going forward, is an open question but it is not a statutory obligation and it is not a generally understood one. It is the role of the auditors to point out weaknesses in controls. But weaknesses in controls as opposed to a different business strategy, I would suggest, are rather different things. ...

**Extract 4**

The contrast structure in Q274 enables Lord Forsyth to cast doubt upon the claim of the Big Four auditors that they performed well in auditing the banks which subsequently received a government 'bail-out' to avert bankruptcy. In so doing, doubt is also being cast upon the trust that society has in the profession – more specifically, trust that audit enables investors and the wider public to evaluate the true financial state of firms (c.f. Power, 1997b: Ch.6). The reality disjuncture is thus: either the audit opinion on the banks was correct [they were solvent and no alarm bells needed sounding] or incorrect [they were not solvent and alarm bells did need sounding]: it cannot be both. Hence, the Big Four must find a way of resolving this 'puzzle'. The initial response by Griffith-Jones draws on the temporal method already discussed above. The term 'hindsight' suggests that judgements *now* need to be treated as a different object-referent to judgements *back then*. Griffith-Jones implies that while he would agree a “going concern” audit opinion would be regarded as erroneous in 2010 (the year of the inquiry), it was not erroneous in 2007-8, because information available now was not available

then. The disjuncture is handled through the creation of two different referents: *audit-opinion-now-with-hindsight* and *audit-opinion-then-without-hindsight*.

In his second response, however, Griffith-Jones attempts to resolve the disjuncture in a different way, by putting forward another alternative referent – a different theory of what 'audit' is. The disjuncture is caused, he implies, by them talking about different things. Griffith-Jones claims that Lord Forsyth's question was premised on the theory that audit is a particular type of 'thing', namely: audit-as-forecast-of-profits, audit-as-risk-assessment, and audit-as-judgement-on-business-model. Griffith-Jones instead proposes a different referent: the audit-as-look-back-exercise. Griffith-Jones is thus able to agree with the *premise* of the question – it would be a neglect of audit to fail to sound alarm bells if 'audit is to assess business models' – while rejecting the notion that the criticism applies to his preferred theory, the 'audit-as-a-look-back-exercise'. This enables the Big Four to deflect, albeit not conclusively, the implication that they somehow 'failed' in the auditing of the banks. Throughout the transcript, the theoretical method is deployed in relation to theory of competition (Q242), theory of market choice (Q243, Q244, Q245, Q251), theory of what constitutes a 'going concern' (Q264, Q265, Q266, Q278, Q280), theory of accounting as a looking backward or forward exercise (Q274, Q276, Q278), and theory of accounting as a prudent judgement or a 'tick box' approach (Q286).

How does this candidate resolution square with other hearings? In the testimony of representatives of the consulting industry (26 Oct 2010) it was argued that IFRS "doesn't allow you to take a forward assessment of risk" (Mr Timothy Bush, fund manager and prior chair of the ICAEW Competition and Choice working group). This is connected with a point about the "international model that is potentially a race to the bottom" and is indicative of a more general "loss of prudence in accounting standards" (ibid). The other side of the coin is, however, the argument that the Big Four have massively benefitted from developments over the last 15 years or so and there is now an automatic assumption that "big is best", coupled with the "perception that the Big Four are better placed" to conduct an audit for an FTSE listed company (26 Oct 2010, Mr Bush and Dr Niels). It is worth pointing out that among the academic expert testimonies (12 Oct 2010), there was some degree of disagreement: one expert would have wished, once they recognised the risk on the balance sheets, to have stuck "their heads over the parapet and say [...] "Hey, there's something wrong here"" (Prof Fearnley, response to Q31); another academic expert points out that "mechanisms for making a public statement in the area that you're mentioning just didn't exist" (Prof Power, response to Q31). Power's testimony is very much in line with his academic work where he has often emphasized that "a public critique in the form of a qualified audit report tends to be a last resort." (1997: 125)

What we call the "theoretical method" is, we suggest, a particular form of reasoning that is specific to forms of expert or professional knowledge. Defendants in a traffic court, for instance, rarely

attempt to put forward an alternative theory of 'speed' in order to accredit their version of events and discredit alternative versions (Pollner, 1987). For lay people the theoretical method is not a commonplace method of reasoning. However, courtrooms – like public inquiries - are replete with forms of expert reason. Prosecution often rests on the production of 'evidence' that is founded on theories of, say, chemical testing or DNA profiling. In fact, as Lynch (1998) has shown, lawyers are skilled at questioning the very foundations of 'expert' and 'professional' concepts and theories that comprise the 'evidence' of the courtroom. Our analysis suggests that theoretical resolutions play a crucial role in the re-legitimation strategies of professions in particular. As we will discuss next, these competing theories also have consequences for institutional change in the profession.

### Discussion

In this study, notions of professionalism, competition and common-sense explanations of competing accounts played key roles in creating an overall narrative of a dysfunctional audit market, which potentially contributed - according to the *Committee* at least - to the global financial crisis. We have shown how contrast structures were employed by the *Committee* in order to display scepticism towards the accounts produced by the Big Four, by exposing the 'reality disjunctures' (Pollner, 1987), or "certain incompatibilities between appearances" (Perelman & Olbrechts-Tyteca, 1969: §90). A contrast structure immediately opens up a division and a moral order: between what you say you did and what you did, what you say happened and what we know actually happened, how things ought to be and how they are. For us, these methods enable the performance of *moral accountability*: holding others to account according to some moral order, including duty, obligation, and responsibility (Boltanski & Thévenot, 2006).

Such holding-to-account is especially important for professions, as it is one method to ensure that professions live up to, or at least approximate, the *idealizations* of professional work (Ezzamel et al, 2007; Greenwood, 1957). In the case of audit, this idealization implies that audit is performed to a high standard of competence and integrity, in the service of public interest. These ideals also benefit the firms themselves. Indeed, firms are known to pay more for supposedly more "reputable" auditors in scenarios like *Initial Public Offerings* (Chaney & Philipich, 2002: 1244). Blatant audit failures therefore need to be seen to be investigated thoroughly, lest public confidence in audit erodes and its very *raison d'être* thereby evaporates: why have an audit if the evaluation either cannot be believed or is of little value? Failure in professions are likely to be scrutinized in ways that other occupations may not be because of their particular privileges, such as limits to free and open competition, which are granted on the basis that they uphold treasured values, such as truth, public service, justice or health. Indeed, in this study, the questioners specifically thematized these privileges and the claim

that the audit profession upholds the values of truth, fairness and transparency and their overall dedication to the public good – including the stability of the entire financial system in this case. 'Regular' occupations presumably would not be held to account with regard to similar privileges or values – a firm that does poor quality work or places profit above public service does not typically prompt a parliamentary investigation. In this way, our paper sheds light on how, at crucial moments, professions handle contestation regarding their professional privileges.

We propose that the discursive methods used to pose and handle reality disjunctures are important because they *do the work* of building, or undermining, the credibility of the versions of reality put forward by the representatives of the profession. A reality disjuncture that was not deemed to be adequately resolved might, arguably, create pressure for political, regulatory and legislative actions. Hence, the very act of exposing a reality disjuncture, we propose, does the *work* of undermining the accounts put forward by the profession. Our focus therefore is less on describing 'the world' but more on "*worlding*, the work whereby a world per se and the attendant concerns which derive from a world per se ... are constructed and sustained" (Pollner, 1987: 7, emphasis added). From the responses by the heads of the Big Four in this study, we identified three principal methods through which these disjunctures are handled and 'candidate resolutions' are put forward: namely, the factual, temporal and theoretical methods. Whilst the former two methods resonate with the 'mundane reasoning' methods documented by others (Pollner, 1987; Gephart, 1984), the 'theoretical' method employed by the Big Four, alongside other academic 'experts', is of particular interest to us here.<sup>9</sup> It represented a form of more 'expertly grounded reasoning' that is a central part of any professional or expert system, such as accounting. The theoretical method enabled the profession to put forward alternative understandings of the underlying 'theory' of competition, audit judgement, auditor independence and conflicts of interests. These issues have indeed for a long time potentially blighted the legitimacy of the accountancy profession (Windsor & Warming-Rasmussen, 2009; Thornburg & Roberts, 2008; Greenwood & Suddaby, 2006; Moore et al, 2006; Sikka et al, 1989). So, how should we make sense of a theoretical disagreement?

We argue that theoretical disjunctures are related to underlying ideological dilemmas. This means that disjunctures which occurred with regard to things like competition, market choice, 'going concern', accounting (as a looking backward or forward exercise), and accounting as a prudent judgement or a 'tick box' approach, expressed deeper dilemmatic ambiguities residing within both neo-liberal ideology (with its ideals of free competition and market choice) and the ideology of professions (such its ideals of higher values or standards). Following Billig (1988), we propose that

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<sup>9</sup> However, we are not proposing that it is always easy to draw a sharp dividing line between expert and mundane reasoning. Indeed, 'experts' invariably draw upon their common-sense reasoning and laypersons may also have knowledge of more expert methods of making sense.

each of these theoretical concepts are rooted in underlying ideologies which contain ambiguous (and to some extent even contradictory) elements: market choice, for example, can mean producers being unhindered by unnecessary regulations or it can mean consumers having a realistic chance to evaluate, and then choose, between what is on offer – even if they ultimately choose not to switch to a competitor. The debate between the *Committee* and the Big Four was therefore played out through these conflicting versions of what it means to have a 'competitive' market, to sign off a set of accounts as a 'going concern' or avoid a 'conflict of interest'.

Our study also has important connections with Boltanski and Thévenot's (2006) notion of "orders of worth", which refers to the higher order principles that actors appeal to when questions are raised about the correctness or justness of a particular social arrangement<sup>10</sup>. As it happens, professions have long been known to define their legitimacy by "attaching their expertise to values with general cultural legitimacy" (Abbott, 1988: 16), such as science, objectivity, rationality or 'public good'. For Friedson (2001: 122), it is this claim of "devotion to a transcendent value", which positions the professions as 'above' the commercial logic of profit maximisation, that provides the underlying rationale for the State conferring privileges such as control over the right to practice, monopoly (or oligopoly) status and control over the body of knowledge. This notion of orders of worth, then, implies that "competent actors can engage discursively, and even strategically, with available orders of worth to justify their position and achieve legitimacy" (Ramirez, 2013: 848). However, during times of apparent failure, it is likely that these justifications will be challenges and tested. For Patriotta *et al.* (2011: 1805), "(t)ests of worth comprise both discursive and material moves and provide the basis for assessing the strength of public arguments according to a given order of worth."

The most obvious contest in our study was between notions of profit maximization associated with the 'market logic' and notions of professionalism associated with what could be called a 'professional logic'. The Big Four's claim to maintain their "privileges" (Friedson, 2001: 122) depended on their ability to convince the *Committee* – and others - that the *professional* order of worth was being upheld by the Big Four and also superseded any *commercial* order of worth. For instance, the Big Four needed to persuade key audiences (such as this *Committee* or the competition regulator that undertook a subsequent enquiry) that their financial dependence on the client, consultancy work or desire to maintain the long-term relationship did not interfere with their independence of judgement and degree of scrutiny in their audit work. Indeed, similar tensions were also present in Suddaby and Greenwood's (2005) analysis of the arguments for multi-disciplinary partnerships, where the PSFs

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<sup>10</sup> The notion of orders of worth also has connections with Suddaby and Greenwood's (2005: 42) notion from institutional theory of "institutional logics" – albeit the former referring to methods of justification and the latter referring to a wider set of values and practices used to guide conduct in an institutional field.



argued that the commercial benefits of partnerships would not interfere with their professional integrity and independence.

While Suddaby and Greenwood (2005) examine the rhetorical strategies used by PSFs to legitimate or de-legitimate change in the institutional field, what we add here is a way of understanding how *contests* around particular professional claims (e.g. claims to being independent or avoiding conflicts of interest) are played out through the exposure of reality disjunctures (viewed as processes of de-legitimation), and attempts to 'resolve' them (viewed as processes of re-legitimation). As Empson et al. (2015: 5) point out, for the Big Four in particular, any claim to a separation of the two orders of worth are likely to be problematic given the fact that the same firm can contain both "the highly regulated audit function (where an auditor's first duty is to uphold the public interest)" and "the management consulting function (where a consultant's first duty is to his or her client)". We go further by showing *how* any such claims to be "upholding a duty" to any stakeholder (or indeed any other professional ideal or value) are socially constructed through discourse, rather than viewing these as 'objective' attributes of any particular professional task or organizational structure.

What is more, the unique contribution of our study is to illuminate not only contests *between* these two competing orders of worth of 'profession' and 'commerce'. Our study has also uncovered contests *within* these orders of worth, namely, contests about the precise *meaning* of abstract ideas and ideals such as 'competition' and 'audit'. In the inquiry we have studied, discursive contests took place around: (1) what a competitive market *is* (what Boltanski and Thévenot call the 'market' order of worth) and (2) what a professional audit *is* (professionalism is subsumed by Boltanski and Thévenot within the 'industrial' order of worth<sup>11</sup>). Thus, we have shown that simple appeals to commonly used terms and phrases associated with professionalism (such as notions of 'expert judgement', 'truth' or 'public good') and markets (such as notions of 'competition' or 'profit maximisation'), are not *in themselves* legitimation tactics. Rather, processes of legitimation take place through the contests around what the proper *theoretical definitions* of these terms should be. For instance, our study has revealed contests around whether a competitive market is one in which buyers have the *choice* to switch or one in which they *exercise* this choice by switching providers. We have also shown the contests around whether an audit involves an assessment of the *accuracy* of financial records or the financial *viability* of a business. Even the definition of what constitutes 'conflict of interest' was

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<sup>11</sup> Arguably, however, professions requires further differentiation in Boltanski and Thévenot's theory, given the fact that notions of 'professional' and 'professionalism' appeal not only to ideals of having specialist expertise and maximizing technical efficiency (associated with industry) but also ideals around civic duty and public good (Abbott, 1988; Empson, et al., 2015). Hence, we would prefer to use the term 'professional logic' or 'professional order of worth' rather than 'industrial order of worth'.

discursively contested – with influential scholars such as Professor Power (see above) also holding different theories of whether offering audit services alongside consultancy services constitutes a concern. Importantly, these are not merely semantic battles over the proper use of terminology. These contests also have far-reaching implications for the governance and regulation of professional service firms – a point we will explain in more detail in the conclusion next.

### Conclusion

This paper has studied the scrutiny placed on the Big Four audit firms in the wake of the global financial crisis. The central objective of our paper was to understand how the profession has handled the threat to their legitimacy in the light of their apparent failure in the auditing of banks, as well as long-standing concerns about competitiveness and conflicts of interest in the profession (Thornburg & Roberts, 2008; Moore et al, 2006). The paper has focused on the testimony of the Big Four to a British parliamentary inquiry by the *House of Lords Economic Affairs Committee* (the *Committee*). The very fact that such an inquiry was deemed necessary indicates that legitimacy was under public scrutiny. For this purpose, we built on Alexander (2011: 81) who expressed a double-edged tension in that “social power be justified and that authority be accountable, but one also must acknowledge that even the most democratic and individuated societies depend on performative abilities to sustain collective belief.” A different way of saying this is to argue that professions need to achieve not only legitimacy and accountability, but also performative effectiveness, such as the ability to *defend* audit, as well as *conduct* it, in a manner deemed to be competent.

We agree that “... social order is negotiated on an ongoing basis, and legitimacy is achieved through public debate among competent agents. In fragmented and contested institutional environments, the harmonious arrangement of things and persons is always ‘up for grabs’” (Patriotta et al, 2011: 1806). Sustaining a shared collective belief – such as belief in the efficacy and ethics of auditors - therefore necessitates accounts to be made that uphold audit as a legitimate means of generating accountability. Our paper has provided an Ethnomethodologically-informed Discourse Analysis (EDA) of the arguments used to defend the audit profession to an audience of political representatives tasked with critically scrutinising the accountancy profession. We have shown that scrutiny was performed by the *Committee* by exposing reality disjunctures in the Big Four’s accounts – contrasts between “what they claim” and “what is (or was) the case”. We have also shown that the Big Four attempted to resolve these disjunctures, and restore their legitimacy, by putting forward candidate resolutions to these disjunctures. It was through the interaction of these methods of scrutinizing legitimacy, and the methods for restoring it, that the “facts” about the state of the profession were established.

Why do interactions such as these matter? They matter because it is these interactional 'mechanics' that establish the 'facts' upon which important decisions about the future of the profession are established. Just like judges, as Pollner (1987: Ch. 2) himself studied, inquiries cannot just sit on the fence or fail to resolve competing accounts. Their institutional role is to take conflicting accounts and 'sort them out' – that is, "produce a determinate version of 'what really happened'." (Pollner, 1987: xii, see also Gephart, 1984). For example, a judge has to decide if the defendant is guilty or innocent from the competing accounts put forward by the prosecution and defense. In such institutional settings, there cannot be multiple realities, only one (which may, of course, later be revised e.g. by an appeal court or higher court). Therefore, just like judges, the job of the *Committee* was to decide whether the audit profession was working well or not, and if not to recommend what should be done about it. Most notably in our case this latter question could include referral to government and regulators who have the power to intervene in the audit market, should they be persuaded that it is necessary and beneficial (Ball, 2009; Cooper & Robson, 2006) – a point we will return to shortly.

It is well established that inquiries do not take place out of 'general interest', but are rather the product of seeking answers to a pressing problem, to find a culprit or a ritualised process to sanitise the status quo (Kertzer, 1988: 107-110; Brown, 2000, 2004, 2005). The immediate fall-out from the global financial crisis looked at explanations such as the lack of regulation, bankers' bonuses and the role of the credit agencies and mark-to-market accounting amongst others (Davies, 2010; Stiglitz, 2010: 156). The House of Lords inquiry into the Big Four marked the second phase of sensemaking into the global financial crisis, the first phase having focussed on the prime protagonists such as the failed banks and credit reference agencies (Hargie, Stapleton & Tourish, 2010; Whittle & Mueller, 2012). From the perspective of institutional legitimacy and trust in their profession (Mueller, Carter & Whittle, 2015), it was clearly an inquiry the Big Four had to take seriously. Some of the questions posed during the *Committee* hearing were by no means new or surprising: mandatory audit firm rotation, for example, has been discussed in the accounting literature for some time (e.g. Arruñada, 2004). Arruñada strongly argued against it on the basis that it "makes audits more costly because it increases production costs and reduces competition in the marketplace" (p.640). Instead of mandatory rotation, he identifies harmful regulations as "the real culprits of the current situation", most seriously the regulation "that obliges large firms or listed companies to audit their accounts" (ibid)<sup>12</sup>. While these questions were certainly amongst those the *Committee* sought to address, the more fundamental question was whether there was indeed some "problem" to be addressed in the first place.

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<sup>12</sup> Some of these theoretical arguments and justifications would have been known to the respondents and, potentially even to the questioners.

Our analysis of the reality disjunctures and associated methods of resolution has shown that the inquiry was not only a mechanism for producing the 'truth' of what happened in the auditing of the banks and the 'fact' of the state of competition in the UK audit market, but also a struggle for meaning over the nature of *expertise*, including what audit *is* and *is not* (Power, 1997a,b). Miller and Rose (2008: 109) refer to "(s)truggles over the regulation of expertise" in a range of new forums including commissions and committees, which "render the actions and judgments of professionals governable in new ways". Indeed, the *Committee* questioned the premise of the Big Four's standard operating practices and expressed their incredulity at some of the established practices. Such public displays of incredulity are not merely 'for show', but are often *performative*<sup>13</sup>: the public displays of scepticism, incredulity and disbelief performed through the exposure of reality disjunctures served to question the faith that could be placed in the accounts of the Big Four.

In our analysis, we were struck by the disjunctures in constituting the *accepted account* of the auditors' role in the financial crisis and their current status as an oligopolistic market. For instance, the Heads of the Big Four asserted that the legitimacy of the Big Four *has never been lost*, while the Lords were apparently keen to undermine the claim that the Big Four have no case to answer. Thus, the questions and answers were a process in which claim and counter-claim were made in order for the *Committee* to establish verisimilitude about the precise role of the Big Four in the global financial crisis. This is a comparable case of distributed governance as the contested rebuilding of 'Ground Zero' examined by Hajer (2009), where a range of events were "to result in the sequence of staged performances that is, eventually, supposed to produce a legitimate decision" (p. 109). Participants in this process make sense of it by looking forward to (i.e. *prospecting*) the potential outcome. In our case, this outcome was an authoritative account about the auditor's role in society and a set of recommendations for changes to the profession.

It is important to recognize that the focus of our analysis is on what the talk that was analysed *actually does*, that is, which version of reality will enter the official account and also what that official account will be used to *do* or *decide* – what Potter (1996) emphasises as the social actions that are *performed* by discourse - in short its *performativity*. Hajer (2009: 135), for instance, discusses how in the context of the BSE scare, governmental attempts at spin and delivering paternalistic messages backfired, "eroded public confidence and led to general distrust." The accounts in the inquiry we have examined are consequential, in our case, for the legitimacy of the profession more generally and consequential also more specifically for the possibility of state intervention in the field. Accepting the theory of competition-as-high-switching, for instance, leads policy makers towards the conclusion

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<sup>13</sup> In the Nixon hearings, for instance, "their use of highly charged political symbolism, and their emotional quality, provided an effective means for divesting Nixon of his authority." (Kertzer, 1988: 28).

that, if competition is artificially low, intervention in the market may be necessary to make the so-called 'invisible hand' of the market operate properly. In the case of the audit industry, this could have taken a number of forms, from the compulsory break-up of the Big Four to the mandatory pairing of the Big Four with second-tier firms. By ratifying a particular account as reality, certain options or alternatives are silenced and certain courses of action are instead privileged, albeit without clearly identifiable causal relationships.

What, then, did the *Committee* we have studied conclude? The final written report produced by the *Committee* largely dismissed the versions put forward by the Big Four<sup>14</sup>. More specifically, the report rejects their claims that the audit industry is highly competitive, has no conflicts of interest and performed their proper duty in the auditing of the banks. The consequences of this political act of 'making reality' (Gephart, 1984) can therefore be traced in the reforms in the accountancy profession that have since been implemented. The consequences of this *Committee* judgement were indeed profound. The *Committee* recommended that competition in the audit market was sufficiently problematic to pass it to the UK Office of Fair Trading, who in turn deemed the situation problematic enough to warrant a full inquiry by the Competition and Markets Authority (CMA) (formerly the Competition Commission), the regulatory body responsible for ensuring free and fair competition and reducing anti-competitive activities. The CMA report concluded that:

*"there are features of the [audit] market or markets which, either alone or in combination, prevent, restrict or distort competition in connection with the supply of statutory audit services to large companies in the UK"*<sup>15</sup>

In September 2014, the CMA announced their new regulations (the "CMA Order") governing the UK audit market<sup>16</sup>. A raft of regulatory changes were put in place: Firms would no longer be permitted to limit those who bid for its audit work to just the Big Four accountancy firms. Mandatory tendering was also introduced, forcing major UK-listed companies to allow accountancy firms to bid for their audit work every 10 years.<sup>17</sup> It is also noteworthy that similar reforms have been implemented at the European level by the European Commission, in the form of a new EU regulatory framework on statutory audit, due to come into force in 2016<sup>18</sup>. These new measures, which include enhancing the independence of auditors, increasing the level of scrutiny in the audit report and increasing audit supervision, have been driven by similar concerns about the professional integrity and independence

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<sup>14</sup> Source: <http://www.parliament.uk/business/committees/committees-a-z/lords-select/economic-affairs-committee/inquiries/auditors-market-concentration-and-their-role/>

<sup>15</sup> Source: The Statutory Audit Services for Large Companies Market Investigation (Mandatory Use of Competitive Tender Processes and Audit Committee Responsibilities) Order 2014 [https://assets.digital.cabinet-office.gov.uk/media/54252eae40f0b61342000bb4/The\\_Order.pdf](https://assets.digital.cabinet-office.gov.uk/media/54252eae40f0b61342000bb4/The_Order.pdf)

<sup>16</sup> The CMA Order came into effect on 1<sup>st</sup> January 2015.

<sup>17</sup> Source: [https://assets.digital.cabinet-office.gov.uk/media/54252eae40f0b61342000bb4/The\\_Order.pdf](https://assets.digital.cabinet-office.gov.uk/media/54252eae40f0b61342000bb4/The_Order.pdf)

<sup>18</sup> Source: Directive 2014/56/EU amending Directive 2006/43/EC.

of the big players. Mirroring the concerns expressed in this inquiry, concerns were voiced at European level specifically about “excessive familiarity between statutory auditors and their clients”, “professional scepticism” and “conflicts of interest”<sup>19</sup>.

The point of our EDA perspective is not to lay claim to a direct causal relationship between, say, unconvincing rhetorical performances by the Big Four representatives on the one hand, and reforms that get initiated on the other hand. Many social processes are undoubtedly involved in such governance and regulation systems. Claiming such direct causality is also rooted in positivistic thinking and is in direct contravention to the core ideas of social constructionist research (Silverman, 2014). What is clear, though, is that failure to reject the *definition of the situation* of audit as “an un-competitive market” and the profession as exhibiting “a failure in audit standards” set the backdrop for the inquiries and reforms that followed, both at UK and EU levels. These were the “agreed facts” and “authoritative versions of reality” upon which attempts at regulation were premised. The aim of our EDA analysis, then, was to reveal *how* these facts and versions of reality are discursively produced. Thus, our EDA approach also links to existing work by Suddaby and Greenwood (2005), Pentland (1993), Hajer (2009: 107-9), Alexander (2011: 68-70) and Ramirez (2013) in linking rhetorical micro performances to broader, meso and macro, considerations regarding professional legitimacy – in our case by tracing how apparently minor discursive moves during a parliamentary hearing set the scene for more far-reaching macro changes in the institutional field. The implications for professions are significant. As we have shown, reality disjunctures that are (ex)posed in such “field-configuring events” (McInerney, 2008) can question the claims of professional ideals, values and standards and therefore invite new forms of regulation or intervention.

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<sup>19</sup> Source: [http://europa.eu/rapid/press-release\\_MEMO-14-427\\_en.htm?locale=en](http://europa.eu/rapid/press-release_MEMO-14-427_en.htm?locale=en)

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The 'Big Four' in the Spotlight

	Given (X)	We would expect (Y)	How do you account for (Z)? (the "reality disjuncture")	Candidate methods for reality disjuncture resolution
<b>Q244 Lord Forsyth of Drumlean</b>	Your claim that the audit market is highly competitive.	There would be a high level of 'switching' between firms.	The fact that switching rates are so low.	<b>The Theoretical Method</b> Griffith-Jones claims that low switching rates are not, in fact, evidence of a lack of competition. He claims that clients are choosing not to exercise the option of tendering – either because the auditor resolves any problems before it goes to tender, or because the audit team is itself rotated frequently, thereby building 'churn' into the system already. The candidate solution offered to resolve the disjuncture is <i>differing theories of competition</i> : according to the Big 4, long-lasting relations between buyer and supplier need not indicate the absence of 'competition'. The 'facts' of low switching rates are not disputed, but rather what those facts indicate about the theoretical concept 'competition'.
<b>Q252 Lord Hollick</b>	That your firms provide advisory services on taxation and tax planning.	That the same accounting firm would not conduct the audit given the conflict of interest.	The fact that your firm also audits the same companies it offers these advisory services to.	<b>The Factual Method</b> Powell attempts to resolve the disjuncture by claiming that this 'fact' (Z) is actually 'fiction': Z has never actually occurred because they would not be allowed (by their independence rules and the client firm's audit committees), or allow themselves (through notions of professionalism), to be in this situation. As such, the questioners are deemed to be talking about a hypothetical event.
<b>Q280 Lord Lipsey</b>	Your firms signed off the banks as a "going concern".	That the banks can "pay their debts as they fall due".	The fact that the banks needed a government bail-out in order to repay their debts.	<b>The Temporal Method</b> Powell states that the objects to which the two accounts refer – the 'going concern' audit opinion – are not the same objects: one is the opinion <i>now</i> post-crisis, with-the-benefit-of-hindsight, and the object to which he is referring was <i>then</i> , pre-crisis.
<b>Q274 Lord Forsyth of Drumlean</b>	The kinds of growth and lending practices of the banks.	There to be 'alarm bells' sounded by auditors.	The fact that no 'alarm bells' were sounded.	<b>The Temporal Method</b> Griffith-Jones implies that while he would agree a "going concern" audit opinion would be regarded as erroneous in 2010 (the year of the inquiry), it was not erroneous in 2007-8 because information available now was not available then. The disjuncture is handled through the creation of two different referents: <i>audit-opinion-now-with-hindsight</i> and <i>audit-opinion-then-without-hindsight</i> . <b>The Theoretical Method</b> In his second response, Griffith-Jones attempts to resolve the disjuncture by putting forward another alternative referent – the theory of what an 'audit' is. The reason for the disjuncture, then, is because they are not talking about an identical object.

Table 1: Contrast Structures, Reality Disjunctures and Methods of Resolution in the *House of Lords EconomicAffairs Select Committee* hearing (23<sup>rd</sup> November 2010)